

TEC/WG Tribal Topic Group Conference Call Summary October 12, 1999

Participants: Kevin Blackwell (DOT), Kevin Clarke (DOE/RL), Maxine Ewankow (8 Northern Indian Pueblos Council), Judith Holm (DOE/NTPA), Stanley Paytiamo (Pueblo of Acoma) Wilda Portner (SAIC), Ki Tecumseh (DOE/AL), Heather Westra (Prairie Island Indian Community)

Issues discussed during this meeting included reorganization of DOE's Office of Environmental Management, October 14-15 Tribal/State Transportation Summit, update on July meeting action items, Transportation Protocols, and the Consolidated Grant Program.

Action Items:

- Email new EM organization chart to all Tribal Issue Topic Group members (W. Portner)
- Provide group membership with website address for DOT's Indian Reservation Roads Program (W. Portner)
- Check with DOE attorneys in Albuquerque area on kinds of agreement existing relative to ceded/Trust lands. (J. Holm)
- Explore possibility of sending Draft Transportation Protocols to this group for review and comment. (J. Holm)

Summary:

Following introductions, Judith Holm summarized the EM reorganization. New organization charts will be forwarded to the group by email or fax. The new organization is effective sometime in November. Carolyn Huntoon is the Assistant Secretary. The National Transportation Program will fall under the new Office of Transportation, headed by Tracy Mustin. This new Office will incorporate the WIPP and Spent Fuels programs as well. The Office of Transportation will be part of the Office of Integration and Disposition, David Huizenga, Deputy Assistant Secretary. Judith Holm noted that the Office of Civilian Radioactive Waste Management remains statutorily separate from the Office of Transportation.

Next, Judith Holm briefed callers on the October 14-15 Tribal/State Transportation Summit in Santa Fe. This meeting was requested by New Mexico Tribes. All aspects of transportation infrastructure and planning, including rail, will be discussed. More specifically, the agenda includes highway planning and building, land transfers, environmental and cultural issues, sovereignty, and jurisdictional issues. The Summit should prove an interesting model of government-to-government relationships. Stanley Paytiamo noted Acoma Pueblo concerns over rail crossing gates. Kevin Blackwell offered to provide group members with Federal Railroad points-of-contact for our region. Judith wrapped up this topic by saying she would like Jim Kozak, NM State Highway and Transportation Department, and Ed Gonzalez, a DOE consultant/member of the San Ildefonso Pueblo, to address the Tribal Issues Topic Group on the Summit at the winter meeting.

Action Items from the July TEC/WG meeting were next on the agenda. Kevin Blackwell said he is working with Heather Westra and the Prairie Island Indian Community to put together a listing of U.S. and Canadian rail representatives who can address Tribal requests for hazardous commodity flow information. He hopes to have the listing available for the next TEC/WG meeting. Kevin also reported that the rail inspection letter is still in the office of the FRA Chief Counsel before it goes to the DOT Counsel. He also informed the group that the final draft of the DOT internal Native American policy should be ready to go to the Secretary of Transportation next week. Secretary Slater intends to announce the policy in celebration of Native American Heritage Month (November). When asked if Tribal input had been solicited for this draft, Kevin responded that because the document is an internal Order, only those Native Americans who are employees of DOT were given the opportunity to comment. Heather Westra warned that this could result in criticism from the Native American community. Kevin agreed and further commented that the document is a living one and not written in stone. Judith suggested that someone suggest to Secretary Slater that he mention this fact when unveiling the new policy. In response to a July action item on inspection rights, Judith and Wilda Portner spoke about the Federal Highway Administration website (<http://www.fhwa.dot.gov/fih/reports/indian>). A report, Indian Reservation Roads Program: Transportation Planning Procedures and Guidelines, is available. Chapter 3 addresses coordination between State and Tribal governments. Judith also reminded call participants that the Commercial Vehicle Safety Alliance looked at highway inspections a while back and offered Tribal participation in their inspector program. Other opportunities are available for rail inspections. Regarding the ceded/Trust land action item from the July TEC/WG meeting, Judith indicated she asked Robert Holden (NCAI) to be alert on this issue. She is pursuing the kinds of agreements that exist and will check locally with a DOE attorney (perhaps Donna Christensen, who served as Navajo Chief Counsel for 4 years).

Heather Westra reported on the status of the DOE Indian Policy. She said it was a topic of major discussion during a meeting at last week's annual NCAI conference. Approximately 30 people attended the meeting, including several tribes and Chris Stearns and Brandt Petrasek from DOE. Robert Holden (NCAI) and Vicki Thornton (DOE) facilitated the meeting. Comments on the policy are due to Robert by October 29, at which time he and Vicki will craft a strawman for further review. It was noted that DOD and EPA both have policies that could serve as good models for DOE's policy development.

Next, attention focused on Transportation Protocols. Any Tribal Issue Topic Group members interested in being involved in the Protocols Topic Group should contact Judith at 505-845-4767 or via email at jholm@doeal.gov. Two Protocols have been drafted, Preplanning and Notification. Routing is still under development. Transportation Planning has been added as a Protocol category. Two committees are associated with Protocols, the DOE Field/HQ Writing Committee and the Steering Committee, which is made up of senior DOE managers. By July, the whole suite of Protocols should be available in pretty good form. It was requested that drafts of all Protocols be sent to our Topic Group for review. Judith said she will check into this matter.

The Consolidated Grant Program was also discussed. Judith reported that over 200 comments were received on the draft. Tribal issues and the roll-out of the program and formulas used were among the key concerns of those offering comments. Overall, the program received a positive response, with no clear preference indicated on administrative issues. Many people like the DOT Hazmat grant process. Comments reflected that the funding formula approach makes sense, but needs should be incorporated. Fairness and flexibility is essential. One possible approach would be to allocate funding on the formula basis and use the allowable expenditures to exercise flexibility for grant recipients. Populations, number of communities, and cultural resource preservation and consideration were other key concerns. Stanley Paytiamo stated that he believes cultural resources need a high ranking, equivalent to the hazmat ranking, both at the planning and emergency response levels. Judith said DOE will have to think about that. The Senior Executive Transportation Forum will be briefed on the Grant Program on October 21. It has been decided that DOE needs to slow down the entire process, and it was suggested that the schedule be expanded to start funding in 2002 instead of 2001. Grant features such as criteria for administration will be worked through during the winter TEC/WG meeting. Then an issue paper will be prepared, with a draft Federal Register Notice being put together for the July TEC/WG meeting. It is hoped the Federal Register Notice will be available for comments on a national basis in the fall of 2000.

In general discussions, Kevin Blackwell noted that DOE's consideration of TRU waste to WIPP by rail and intersite shipments will be on the agenda at the upcoming WGA/SSEB meeting.

Judith announced that TEC/WG will probably undergo a schedule shift from January meetings to February meetings. The format will most likely change to focus more on the working groups and less on plenary sessions as well.

The next conference call is scheduled for November 16, 1999 at 2 p.m. Eastern time. Call-in number will be forwarded with preliminary agenda. If you would like to recommend agenda items, please contact Wilda Portner at 505-842-7818 or email her at wilda.e.portner@saic.com.